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9 Attorney for Plaintiffs

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IN THE SUPERIOR COURT OF THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

OHIO SECURITY INSURANCE
COMPANY, a New Hampshire company,

Plaintiff,

v.

BLACK & DECKER INC. D/B/A PORTER-
CABLE CORPORATION, a Maryland
corporation,

Defendant.

Cause No. 4FA-21-01583C1

SUMMONS AND NOTICE TO
PARTIES OF JUDICIAL ASSIGNMENT

TO DEFENDANT: BLACK & DECKER INC D/B/A PORTER-CABLE CORPORATION

You are hereby summoned and required to file with the Court a written Answer to the

Complaint which accompanies this Summons. Your answer must be filed with the Court at:

101 Lacey Street, Fairbanks, Alaska within 20* days after the day you receive the Summons.

In addition, a copy of your Answer must be sent to:

Plaintiff's Attorney: Kyle A. Farnam, Cozen O'Connor
999 Third Avenue, Suite 1900
Seattle, WA 98104

If you fail to file your Answer within the required time, a default judgment may be entered against you for the relief demanded in the Complaint.

If you are not represented by an attorney, you must inform the Court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing

SUMMONS - 1

LAW OFFICES OF
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1 address and telephone number. You may use court form *Notice of Change of Address /*
2 *Telephone Number* (TF-955), available at the clerk's office or on the Court system's website at
3 <https://public.courts.alaska.gov/web/forms/docs/tf-955.pdf>, to inform the Court.

4 -OR-

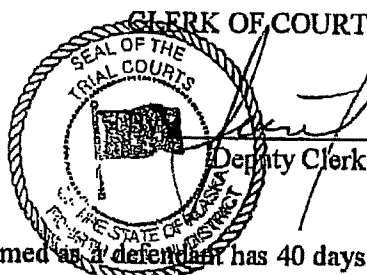
5 If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(i).

6 **NOTICE OF JUDICIAL ASSIGNMENT**

7 TO: Plaintiff and Defendants

8 This case has been assigned to Judge Lyle

9 May 19, 2021
10 Date



12 * The state or a state officer or agency named as a defendant has 40 days to file its Answer. If
13 you have been served with this Summons outside the United States, you also have 40 days to
14 file your Answer.

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SUMMONS - 2

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Attorney for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

OHIO SECURITY INSURANCE
COMPANY, a New Hampshire company,

Plaintiff,

v.

BLACK & DECKER INC. D/B/A PORTER-
CABLE CORPORATION, a Maryland
corporation,

Defendant.

Cause No.

COMPLAINT

COMPLAINT FOR DAMAGES

Plaintiff Ohio Security Insurance Company ("Ohio Security"), as subrogee of CJ's of Fairbanks LLC d/b/a Carl's Jr. ("CJ"), by and through its attorneys of record, complain against Defendant Black & Decker Inc. d/b/a Porter-Cable Corporation ("Porter-Cable") as follows:

I. PARTIES

1.1 At all relevant times, Ohio Security was and is a company duly organized under the laws of New Hampshire with its principal place of business in Ohio.

1.2 At all relevant times, Ohio Security provided insurance coverage to CJ and its property located at 1391 University Avenue South, Fairbanks, Alaska 99709 ("Subject Property").

COMPLAINT - 1

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1 1.3 Upon information and belief, at all relevant times, Porter-Cable was and is a
2 corporation duly organized under the laws of Maryland with its principal place of business in
3 Tennessee.

4 **II. JURISDICTION AND VENUE**

5 2.1 Ohio Security reallages all preceding paragraphs as though fully set forth
6 herein.

7 2.2 The amount of Ohio Security's claim for damages exceeds \$100,000.00.
8 Therefore, jurisdiction in this matter is conferred to the Superior Court of the State of Alaska.

9 2.3 The incident that forms the basis of this lawsuit occurred in Fairbanks, Alaska,
10 and venue in this matter is properly laid in the Fourth Judicial District at Anchorage.

11 **III. FACTUAL BACKGROUND**

12 3.1 Ohio Security reallages all preceding paragraphs as though fully set forth
13 herein.

14 3.2 On May 12, 2019, fire erupted at the Subject Property.

15 3.3 Subsequent investigation revealed that the fire originated at an air compressor
16 manufactured by Porter-Cable ("Subject Air Compressor").

17 3.4 Further investigation revealed that the Subject Air Compressor was defective
18 and caused the fire.

19 3.5 Following the fire, CJ submitted a claim to its insurer, Ohio Security. Ohio
20 Security made payments to CJ for the damages sustained due to the fire pursuant to the terms
21 of its insurance policy; thus, Ohio Security is equitably, contractually, and legally subrogated
22 to the rights and remedies that CJ may have against Porter-Cable to the extent of its payments
23 under the policy of insurance.

24 3.6 As a result of the fire, Ohio Security incurred damages in an amount to be
25 proven at trial, which is currently estimated to be approximately \$244,277.31.

26 **COMPLAINT - 2**

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1 **IV. CAUSE OF ACTION: STRICT PRODUCT LIABILITY**

2 4.1 Ohio Security reallages all preceding paragraphs as though fully set forth
3 herein.

4 4.2 Porter-Cable manufactured the Subject Air Compressor that caused the fire to
5 the Subject Property.

6 4.3 Porter-Cable is a manufacturer and/or commercial seller of the Subject Air
7 Compressor for purposes of this lawsuit.

8 4.4 The Subject Air Compressor was not reasonably safe in design in that the
9 likelihood that the Subject Air Compressor could fail and cause a fire under foreseeable
10 circumstances and the seriousness of such injury outweighed the burden on Porter-Cable to
11 design its product in a manner that would have prevented the damage.

12 4.5 The Subject Air Compressor was not reasonably safe in construction because
13 when it left Porter-Cable's hands, it deviated in some material way from Porter-Cable's design
14 specifications or performance standards or deviated in some material way from otherwise
15 identical units of the same product line.

16 4.6 The Subject Air Purifier was not reasonably safe because an ordinary consumer
17 does not contemplate using such a product in a foreseeable manner would cause it to fail and,
18 thereby, cause substantial property damage.

19 4.7 As a direct and proximate cause of Porter-Cable's conduct, Ohio Security
20 incurred damages in an amount to be proven at trial, which is currently estimated to be
21 approximately \$244,277.31.

22 **V. PRAYER FOR RELIEF**

23 WHEREFORE, Ohio Security prays the Court for relief as follows against Porter-
24 Cable:

25 1. For Ohio Security be awarded its damages in an amount to be proven at the
26

COMPLAINT - 3

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1 time of trial;

2 2. For Ohio Security's costs and expenses incurred herein;

3 3. For any reasonable attorney's fees as allowed by law;

4 4. For prejudgment interest as allowed by law from the date of the fire incident up
5 until the time judgment is rendered herein; and

6 5. For such other and further relief as the Court deems just and equitable under the
7 circumstances.

8 DATED this 4th day of May, 2021.

9 COZEN O'CONNOR

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11 By: /s/ Kyle Farnam

12 Kyle A. Farnam, AK Bar No. 1610085
13 Attorney for Plaintiffs
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COMPLAINT - 4

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